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DOCKET NO.: DM-6999A / BMS-0690

PATENT

COPY OF PAPER
ORIGINALLY FILED

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of:

Rajopadhye, et al.

Serial No.: 09/599,890

Group Art Unit: 1624

Filing Date: June 21, 2000

Examiner: V. Balasubramanian

For: VITRONECTIN RECEPTOR ANTAGONIST PHARMACEUTICALS

DATE OF DEPOSIT: May 15, 2002

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Attention: Office of Petitions
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Assistant Commissioner for Patents
Washington, DC 20231

**REQUEST FOR RECONSIDERATION OF A PETITION FOR
REVIVAL OF ABANDONED APPLICATION UNDER 37 1.137(b)
PURSUANT TO 37 CFR 1.137(e)**

Applicants respectfully request reconsideration of the Decision dated April 2, 2002, on Applicants' Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 C.F.R. § 1.137(b), filed February 8, 2002.

The above-identified application became abandoned for failure to file a timely and proper reply to the Office Action mailed on April 14, 2001, which set a one month period for reply. On September 7, 2001, applicants filed a Continued Prosecution Application. However, since the present Application has a filing date after May 2000 it was ineligible for consideration of a Continued Prosecution Application. Further, no extension of time was filed with the Continued Prosecution Application. Accordingly, the Office treated it as a Request for Continued Examination. However, since prosecution on the merits had not been closed, the present application was also ineligible for consideration of a Request for Continued

Examination. As such, the Patent Office could not enter either the Continued Prosecution Request or the Request for Continued Examination in lieu of a response to the Restriction Requirement. As no response "in fact" was ever filed to the Restriction Requirement, the Patent Office Issued a Notice of Abandonment.

In response to the Notice of Abandonment, Applicants filed a Petition for Revival of an Application Abandoned Unintentionally Pursuant to 37 CFR Sec. 1.137(b). Applicants' Petition was dismissed, however, as set forth in a Decision on Petition dated April 2, 2002. Accordingly, Applicants are renewing their Petition for Revival of An Application Abandoned Unintentionally Pursuant to 37 CFR 1.137(b). This renewed petition is being filed within two months of the Decision.

Upon reviewing the Decision, it appears to have been dismissed for two reasons. First, the Office of Petitions appears to have misinterpreted Applicants' submission of a copy of the CPA request, which was originally filed on September 7, 2001, as a request for a new CPA. This was not Applicants' intent, as the copy of the CPA request was included with the Petition merely to provide corroboration of the facts that resulted in abandonment of the application.

Secondly, Applicants' Petition was apparently dismissed for not including the required reply to the pending Office Action dated April 4, 2001 (restriction requirement). Applicants respectfully submit that the Petition filed on February 8, 2002 did include a *bona fide*, good faith reply to the restriction and election of species requirement dated April 4, 2001. Applicants respectfully point out, in this regard, that the paper submitted along with the Petition for Revival was entitled "Response to Restriction Requirement Under 35 U.S.C. § 121, and contained both an election of the invention of Group V, and an election of the species shown in Example 4 of the application (see "Remarks" section of the Response filed February 8, 2002).

Applicants note that numerous claim amendments were requested in the Response to Restriction Requirement dated February 8, 2002. In the interest of simplifying Applicants' Petition, and minimizing the number of outstanding issues, Applicants hereby withdraw the Response to Restriction Requirement filed February 8, 2002 (while not withdrawing the Petition for Revival), and enclose herewith a new Response, entitled "Response to Restriction Requirement Mailed April 4, 2001." As set forth in this paper, it is Applicants' understanding that Claims 1 to 75, as originally filed in the application, remain pending at this time. Accordingly, Applicants have elected the invention of Group V, as originally set forth in the Office Action dated April 4, 2001, and have also provided the requested election of species.

In addition to the paper entitled "Response to Restriction Requirement Mailed April 4, 2001," Applicants also enclose herewith a Request for Change of Correspondence Address, duly executed by Blair Q. Ferguson, Registration No. 34,329, an attorney of Record in this application.¹ Also enclosed is an Associate Power of Attorney, also duly executed by Blair Q. Ferguson, authorizing Applicants' undersigned representative to prosecute this application.

¹ See Declaration and Power of Attorney filed August 29, 2000.

Applicant Hereby Renews Its Petition For The Revival of This Application**Petition fee (37 CFR 1.17m):**

This petition is being filed on behalf of a large entity. The fee for such petition is \$1,280.00. Since this fee was paid in the original petition filed on February 8, 2002, applicants do not believe that any fee is due at this time. However, should a fee be required for the consideration of this renewed petition, the Commissioner is authorized to charge such fee to Deposit Account No. 23-3050

Reply

The reply to the Restriction Requirement dated April 14, 2002

- ☐ in the form of _____ (identify the type of reply) was previously filed on ____.
- ☒ is enclosed herewith.

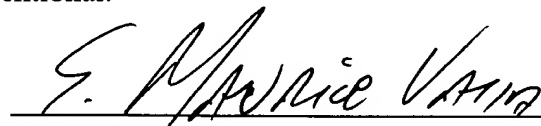
Terminal disclaimer with disclaimer fee:

- ☒ Since this utility application was filed on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer and disclaimer fee (37 CFR 1.20(d)) disclaiming a period equivalent to the period of abandonment is enclosed herewith. (See PTO/SB/63)

STATEMENT

The entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional.

Date: May 15, 2002


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